

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

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FILE: B-218204

DATE: March 25, 1985

MATTER OF: Power Systems--Request for Reconsideration

DIGEST:

1. Request for reconsideration is denied where protester has not shown any error of fact or law in prior decision which warrants reversal.
2. Claim for additional damages beyond bid preparation costs because of delay in issuance of decision is denied because such delay is a procedural matter which does not give rise to substantive rights and, in any event, no additional damages are legally recoverable even if claimant was wrongfully denied a contract.

Power Systems (Power) requests that we reconsider our decision in Power Systems--Claim for Costs, B-210032.2, Mar. 26, 1984, 84-1 C.P.D. ¶ 344, in which we allowed Power's claim for bid preparation costs, but denied its claim for other damages.

Power asserts that our decision failed to address its allegation that either our Office mishandled the case and took an unreasonable time to decide Power's original protest, or that the Navy purposely delayed the case to avoid a termination for convenience of the contract and an award to Power. In addition, Power asserts that our denial of its claim for overhead expenses and general and administrative expenses and the profit applicable thereto was improper because we considered them to be anticipated profits or similar monetary damages, when, in fact, Power did not include anticipated profits in its claim.

There is no indication in our records that the Navy deliberately delayed GAO consideration of the protest. The agency report was filed in our Office 14 working days after Power submitted its final protest allegation, which is well within the 25-working-day guideline for submission of an agency report contained in our Bid Protest Procedures, 4 C.F.R. § 21.3(c) (1984). Our Office did exceed the 25-working-day goal for issuance of a decision contained in our

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Bid Protest Procedures, 4 C.F.R. § 21.8, because of the need to obtain certain misplaced documentation. However, we have consistently held that delay beyond the guideline periods in our Bid Protest Procedures constitutes a purely procedural matter which does not give rise to any substantive remedy. Le Prix Electrical Distributors, Ltd., B-211201, July 6, 1983, 83-2 C.P.D. 63; E.S. Edwards & Son, Inc., et al., B-212304, June 18, 1984, 84-1 C.P.D. ¶ 631. In any event, Power has already been awarded bid preparation costs, which are the only damages legally allowable, Hub Testing Laboratories--Claim for Costs, B-199368.3, June 18, 1982, 82-1 C.P.D. ¶ 602, and there is no legal basis for allowing recovery of anticipated profits even if the claimant is wrongfully denied a contract. Dillingham Construction Co., Inc., B-205588, May 6, 1982, 82-1 C.P.D. ¶ 432.

Regarding Power's allegation that its claim was for general and administrative expenses and profit applicable thereto and not for anticipated profits, as we characterized it in our decision, the characterization is irrelevant. It is well established that our Office will not award costs, other than direct bid preparation costs regardless of how characterized. American Construction, B-213199, July 24, 1984, 84-2 C.P.D. ¶ 95.

Accordingly, we affirm our prior decision.

for *Harry D. Jan Clark*
Comptroller General
of the United States